

Message Text

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ORIGIN EUR-12

INFO OCT-01 ISO-00 L-03 EB-07 COME-00 TRSE-00 STR-04 SS-15

NSC-05 CIAE-00 INR-07 NSAE-00 /054 R

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L/EB- MR. BOND

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P 222332Z VCT 76

FM SECSTATE WASHDC

TO AMEMBASSY PARIS PRIORITY

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E.O. 11652: N/A

TAGS: EFIN, FR

SUBJECT: POSSIBLE CHANGE IN FRENCH TAX CODE

REF: PARIS 30975

1. TREASURY SUGGESTS INITIAL NEGOTIATION BE HELD AT PARIS ON EITHER NOVEMBER 18-19 OR NOVEMBER 29-30, SINCE TREASURY REPRESENTATIVES WILL BE ATTENDING OECD FISCAL WORKING GROUP MEETING DURING WEEK OF NOVEMBER 22. PLEASE ADVISE.

2. WITH REGARD TO POSSIBLE FRENCH REPEAL OF ARTICLE 164, PARAGRAPH 3 OF REFTEL REPORTS PONCELET AS INDICATING THAT IF REPEAL IS ENACTED NOW ITS ENTRY INTO FORCE COULD NOT BE SUSPENDED. DOES THIS MEAN THAT FRANCE COULD NOT ENACT THE REPEAL NOW WITH AN EFFECTIVE DATE TO COVER INCOME RECEIVED BEGINNING JANUARY 1978? IF FRANCE WOULD REPEAL NOW, BUT DELAY THE EFFECTIVE DATE TO APPLY TO INCOME IN THE TAXABLE YEAR BEGINNING JANUARY 1978, PRESENT ENACTMENT MIGHT BE ACCEPTABLE AND COULD PROVIDE THE IMPETUS

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TO RESOLVE ALL THREE OUTSTANDING ISSUES WITHIN A DEFINITE TIME FRAME.

3. PONCELET REASONING THAT AN EFFECTIVE DATE COVERING INCOME RECEIVED BEGINNING JANUARY 1977 SHOULD BE ACCEPTABLE BECAUSE AMERICANS NEED NOT PAY FRENCH TAX ON 1977 INCOME UNTIL 1978 IS NOT PERSUASIVE. AMERICANS SUBJECT TO POTENTIAL DOUBLE TAXATION CANNOT PLAN THEIR INVESTMENTS OR STOCK OPTIONS, AND MUST ALSO KEEP A RESERVE FOR POTENTIAL DOUBLE TAX LIABILITY. MOREOVER, THEY WOULD NOT KNOW WHETHER THEY SHOULD LEAVE FRANCE BECAUSE OF THE POSSIBILITY OF AN UNSATISFACTORY OUTCOME OF THE NEGOTIATIONS. AS AN EXAMPLE, AMERICANS WITH SUBSTANTIAL INCOME FROM MUNICIPAL BONDS MIGHT BE FACED WITH THE CHOICE OF MOVING OUT OF FRANCE OR DISPOSING OF THEIR BONDS, EVEN IF FRANCE WOULD ALLOW CREDIT FOR US TAX ON THEIR INCOME FROM SUCH BONDS, BECAUSE US DOES NOT TAX SUCH INCOME. ACCORDINGLY, WE SUGGEST THAT A STRONG PITCH BE MADE FOR DELAYING THE EFFECTIVE DATE OF ANY REPEAL OF ARTICLE 164 TO APPLY TO INCOME RECEIVED AFTER JANUARY 1, 1978, ESPECIALLY IN VIEW OF THE SHORT NOTICE THE FRENCH HAVE GIVEN REGARDING THE PROPOSED REPEAL. KISSINGER

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*** Current Handling Restrictions *** n/a

*** Current Classification *** LIMITED OFFICIAL USE

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: FINANCIAL PROGRAMS, FOREIGN INVESTMENTS, LAW, TAX REFORMS
Control Number: n/a
Copy: SINGLE
Draft Date: 22 OCT 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: BoyleJA
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976STATE262731
Document Source: CORE
Document Unique ID: 00
Drafter: WE/EJBEIGEL
Enclosure: n/a
Executive Order: n/a
Errors: n/a
Film Number: D760397-0960
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19761096/aaaaghvu.tel
Line Count: 86
Locator: TEXT ON MICROFILM, TEXT ON-LINE
Office: ORIGIN EUR
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 PARIS 30975
Review Action: RELEASED, APPROVED
Review Authority: BoyleJA
Review Comment: n/a
Review Content Flags:
Review Date: 27 JUL 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <27 JUL 2004 by coburnhl>; APPROVED <12 AUG 2004 by BoyleJA>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> gwr 970925
Subject: POSSIBLE CHANGE IN FRENCH TAX CODE
TAGS: EFIN, FR, US
To: PARIS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006